

REMARKS/ARGUMENTS

In the restriction/election of species requirement dated January 7, 2010, the Examiner delineated the following invention as being patentably distinct.

Group I: Claims 1-11, drawn to a method of using a radiation-curable laminated sheet; and

Group II: Claims 12-18, drawn to a radiation-curable laminated sheet.

The Examiner further required the election of a single species. Accordingly, Applicants elect species (b) directed to a process of thermoforming and coating a sheet or film.

The claims of Groups I and II are integrally linked as method of using and product used in said method.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). There is a technical relationship between the Groups that defines the contribution that each of the Groups, taken as a whole, makes over the prior art.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility. Unity of invention has to be considered in the first place only in relation to the independent claim. A dependent claim is one which contains all the features of another claim and is in the same category of claims as other claims. It does not matter if a dependent claim itself contains a further invention.

Further, the M.P.E.P. states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.”


Applicants submit that a search of all the claims would not constitute a serious burden on the Office.

The Examiner has not considered that the claims in each group are considered related inventions under 37 C.F.R. § 1.475(b) in which the inventions are considered to have unity of invention. Applicants submit that while PCT 13.1 and 13.2 are applicable, 37 C.F.R. § 1.475(b) provides in relevant part that “a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to --(3) product, process, and the use of said product. As the Office has not shown any evidence that a restriction should now be required when the International Report did not, the restriction is believed to be improper.

Applicants submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

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